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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,377	01/05/2004	David M. Stravitz	02762/LH	2649
1933	7590	01/06/2005		
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 767 THIRD AVENUE 25TH FLOOR NEW YORK, NY 10017-2023			EXAMINER KAUFMAN, JOSEPH A	
			ART UNIT 3754	PAPER NUMBER

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/751,377	Applicant(s) STRAVITZ, DAVID M.	
	Examiner Joseph A. Kaufman	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 28 and 30-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-27 and 29 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of specie B in the reply filed on December 21, 2004 is acknowledged.
2. Claims 28 and 30-34 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 21, 2004.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sensor and the timing device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

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Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 7, 8, 10, 11, 16-18 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Roehrs.

Roehrs shows a cartridge module 5; circular upper wall 6; lower wall 7, 9; sidewall 5, 9; dispensing openings in the perforate wall 7; agent in 5; the wall 9 extends inward and is smaller than the upper wall; lip seen in Figure 1; supply opening at 6, 6 being a covering member; plug 8; the cartridge module is unitary (in one piece); and the opening(s) would inherently be determined by the dispensed agent (or it would not operate).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roehrs.

Roehrs has been discussed above, but lack the adhesive on the cover and the number of openings. It would have been obvious to one of ordinary skill in the art to provide adhesive to the cover in order to mount the device to a surface. Further, the number of openings would have been obvious to vary in order to increase or decrease the dispensing rate.

8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roehrs in view of Levison.

Roehrs has been discussed above, but lacks the container having a transparent sidewall and having indicia. Levison shows a transparent measuring cup 10A with indicia 10B. It would have been obvious to provide the device of Roehrs with a transparent sidewall with indicia as taught by Levison in order to dispense a more precise amount of product and to be able to determine the amount left in the container.

9. Claims 5, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roehrs in view of Titus.

Roehrs has been discussed above, but lacks the hemispheric/concave wall and reinforcing structure. Titus shows a hemispheric side/concave bottom wall c and reinforcing structure b. It would have been obvious to one of ordinary skill in the art to provide the hemispheric side/concave bottom wall as taught by Titus on the device of Roehrs in order to better regulate the amount and direction of the dispensed material.

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The reinforcing structure would have been obvious in order to prevent damage caused by excessive stress on the dispensing part.

10. Claims 19-21, 23, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn in view of Roehrs.

Hahn shows a base 10; receptacle 11; opening 14; lid 12; dispenser 19 having an agent inside to be dispensed and an upper, lower and side wall; and the dispenser is connected integrally on the underside of the lid. Hahn lacks the details of the dispenser. Roehrs show a dispenser for powdery substances having dispensing openings 7; and upper wall 6 that is a supply opening, the wall having a lip as seen in Figure 1 and the threads are the retaining members. It would have been obvious to one of ordinary skill in the art to provide the details of the dispenser as taught by Roehrs on the device of Hahn in order to dispense a substance from a dispenser that can easily be refilled and allow for the dispenser to be removed and cleaned.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn as modified by Roehrs as applied to claim 21 above, and further in view of Titus.

Hahn and Roehrs have been discussed above, but lack the hemispherical sidewall. Titus shows a hemispherical sidewall c. It would have been obvious to one of ordinary skill in the art to provide the hemispheric sidewall as taught by Titus on the device of Hahn and Roehrs in order to better regulate the flow of material to the outlets.

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Allowable Subject Matter

12. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roop, Block, and Ambrose show other dispenser with multiple openings and concave bottom walls; and Owen shows containers with indicia.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
1/4/05

jak
January 4, 2005